

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00895R

Parcel No. 171/00236-810-001

Russell D. & Charlene R. Johnson,

Appellants,

v.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 9, 2016. Russell and Charlene Johnson were self-represented. Assistant County Attorney Mark Taylor represented the Polk County Board of Review.

The Johnsons are the owners of a one-story, residential townhouse located at 804 Brookview Drive, Altoona. The dwelling has 1288 total square feet of living area; a full, unfinished basement; open and enclosed porches; and a 460-square-foot attached garage. The dwelling was built in 1992 and is listed in normal condition and with good quality construction (Grade 3+00). The site is 0.177 acres. (Ex. E).

The property's January 1, 2015, assessment was \$146,200, allocated as \$28,300 in land value and \$117,900 in improvement value. The Johnsons' property was used as a comparable by another townhouse owner in their Board of Review protest. Subsequently, the Board of Review determined Johnsons' property was not equitably assessed with comparable townhomes and increased the Johnsons' assessment to \$173,900. The Johnsons then protested to the Board of Review claiming the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a).

The Board of Review denied the petition.

The Johnsons then appealed to PAAB. They believe the subject property's correct assessment is \$166,900.

Findings of Fact

The Johnsons identified two neighboring townhouses they consider comparable to the subject property. Both properties are similar in site size, style, age, location, and construction quality, but have lower assessments than their property. (Exs. C & D).

Address	TSFLA	Enclosed Porch SF	Open Porch SF	Patio SF	Garage SF	2015 AV
Subject	1288	170	45		460	\$173,900
806 Brookview	1288	None	45	170	460	\$166,800
808 Brookview	1288	None	45	170	460	\$166,800

Charlene Johnson testified that she did not believe her townhouse was assessed fairly compared to these two properties. She also believes the assessor's office should have completed an interior inspection of her property as part of the assessment process. In Johnson's opinion, their enclosed porch only adds roughly \$100 in extra value to her property.

Amy Rasmussen, Director of Litigation for the assessor's office, testified on behalf of the Board of Review. She explained that Johnsons' property has an enclosed porch; whereas, the compared properties only have patios, which results in the Johnsons' higher assessment. Rasmussen indicated the replacement cost new of the Johnsons' enclosed porch was \$9472 on the cost report. (Ex. E). The replacement cost new of the neighbors' patios was \$707. (Exs. C & D). These differences are noted on the cost reports for each property. (Exs. C-E). After depreciation and neighborhood adjustments, the Johnsons' enclosed porch is valued at \$7700 (rounded) and the neighbors' patios are valued at \$600 (rounded) each. The difference of roughly \$7100 accounts for the differences in assessments between the subject property and the compared properties (\$173,900 – \$166,800 = \$7100).

There is no evidence of recent sales of the subject or compared properties, or other evidence of their fair market values. Consequently, it is impossible to develop an assessment/sales ratio for equity analysis cannot be developed.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). In this case, Duster did not shift the burden, and therefore, must prove the assessment is inequitable based upon a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than

other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Johnsons offered two properties they considered comparable for an equity analysis. Neither of the properties were recent sales. While the properties were similar in age, style, grade, size, and location, the compared properties did not have an enclosed porch, like the Johnsons’ property, which accounted for the Johnsons’ higher assessment. They offered no evidence of the subject’s fair market value, such as an appraisal, comprehensive market analysis, or recent sales of comparable properties. Because there is no evidence of the subject’s market value and no evidence of recent comparable sales, we were unable to develop an assessment/sales ratio for the Johnsons’ property as required by *Maxwell* to complete the equity analysis. Additionally, they did not assert the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. For these reasons, the Johnsons failed to show their property is inequitably assessed.

Order

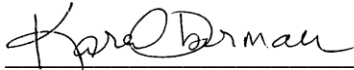
IT IS THEREFORE ORDERED that the Polk County Board of Review’s action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

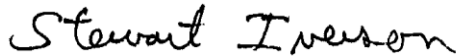
Dated this 30th day of March, 2016.



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:

Russell D. & Charlene R. Johnson

Mark Taylor